

Federal Housing Finance Agency.

§ 1291.6

such Bank to which the institution has transferred its obligations under the approved AHP application, or the Bank may disburse AHP subsidies through another Bank to a member of that Bank that has assumed the institution's obligations under the approved AHP application.

(2) *Progress towards use of AHP subsidy.* A Bank shall establish and implement policies, including time limits, for determining whether progress is being made towards draw-down and use of AHP subsidies by approved projects, and whether to cancel AHP application approvals for lack of such progress. If a Bank cancels any AHP application approvals due to lack of such progress, the Bank shall make the AHP subsidies available for other AHP-eligible projects.

(3) *Compliance upon disbursement of AHP subsidies.* A Bank shall establish and implement policies for determining, prior to its initial disbursement of AHP subsidies for an approved project, and prior to each subsequent disbursement if the need for AHP subsidy has changed, that the project meets the eligibility requirements of paragraph (c) of this section and all obligations committed to in the approved AHP application. If a Bank cancels any AHP application approvals due to non-compliance with eligibility requirements of paragraph (c) of this section, the Bank shall make the AHP subsidies available for other AHP-eligible projects.

(4) *Changes in approved AHP subsidy amount where a direct subsidy is used to write down prior to closing the principal amount or interest rate on a loan.* If a member is approved to receive AHP direct subsidy to write down prior to closing the principal amount or the interest rate on a loan to a project, and the amount of AHP subsidy required to maintain the debt service cost for the loan decreases from the amount of AHP subsidy initially approved by the Bank due to a decrease in market interest rates between the time of approval and the time the lender commits to the interest rate to finance the project, the Bank shall reduce the AHP subsidy amount accordingly. If market interest rates rise between the time of approval and the time the lender com-

mits to the interest rate to finance the project, the Bank, in its discretion, may increase the AHP subsidy amount accordingly.

(5) *AHP outlay adjustment.* If a Bank reduces the amount of AHP subsidy approved for a project, the amount of such reduction shall be returned to the Bank's AHP fund. If a Bank increases the amount of AHP subsidy approved for a project, the amount of such increase shall be drawn first from any currently uncommitted or repaid AHP subsidies and then from the Bank's required AHP contribution for the next year.

(6) *Project sponsor notification of reuse of repaid AHP direct subsidy.* Prior to disbursement by a project sponsor of AHP direct subsidy repaid to and retained by such project sponsor pursuant to a subsidy re-use program authorized by the Bank under § 1291.8(f)(2) of this part, the project sponsor shall provide written notice to the member and the Bank of its intent to disburse the repaid AHP subsidy to a household satisfying the requirements of this part and the commitments made in the approved AHP application.

(h) *Bank board duties and delegation—*

(1) *Duties.* A Bank's board of directors, after consultation with its Advisory Council, shall be responsible for:

(i) Adoption of the AHP Implementation Plan required pursuant to § 1291.3 of this part; and

(ii) Approving or disapproving the applications for AHP subsidy pursuant to § 1291.5(e) of this part.

(2) *No delegation.* The Bank's board of directors shall not delegate to Bank officers or other Bank employees the responsibilities set forth in paragraph (h)(1) of this section.

[71 FR 59286, Oct. 6, 2006, as amended at 74 FR 38522, Aug. 4, 2009]

§ 1291.6 Homeownership set-aside programs.

(a) *Establishment of program.* A Bank may establish one or more homeownership set-aside programs pursuant to the requirements of this part.

(b) *Eligible applicants.* A Bank shall accept applications for AHP direct subsidy under its homeownership set-aside programs only from institutions that are members of the Bank at the time

the application is submitted to the Bank.

(c) *Minimum eligibility requirements.* A Bank's homeownership set-aside programs shall meet the following eligibility requirements:

(1) *Member allocation criteria.* AHP direct subsidies shall be provided to members pursuant to allocation criteria established by the Bank in its AHP Implementation Plan.

(2) *Eligible households.* Members shall provide AHP direct subsidies only to households that:

(i) Have incomes at or below 80 percent of the median income for the area at the time the household is accepted for enrollment by the member in the Bank's homeownership set-aside program, with such time of enrollment by the member defined by the Bank in its AHP Implementation Plan;

(ii) Complete a homebuyer or homeowner counseling program provided by, or based on one provided by, an organization experienced in homebuyer or homeowner counseling, in the case of households that are first-time homebuyers; and

(iii) Are first-time homebuyers, in the case of households receiving funds pursuant to the first-time homebuyer requirement in §1291.2(b)(2) of this part, and meet such other eligibility criteria that may be established by the Bank in its AHP Implementation Plan, such as a matching funds requirement, homebuyer or homeowner counseling requirement for households that are not first-time homebuyers, or criteria that give priority for the purchase or rehabilitation of housing in particular areas or as part of a disaster relief effort.

(3) *Maximum grant amount.* Members shall provide AHP direct subsidies to households as a grant, in an amount up to a maximum of \$15,000 per household, as established by the Bank in its AHP Implementation Plan, which limit shall apply to all households.

(4) *Eligible uses of AHP direct subsidy.* Households shall use the AHP direct subsidies to pay for down payment, closing cost, counseling, or rehabilitation assistance in connection with the household's purchase or rehabilitation of an owner-occupied unit, including a condominium or cooperative housing

unit or manufactured housing, to be used as the household's primary residence.

(5) *Retention agreement.* An owner-occupied unit purchased or rehabilitated using AHP direct subsidy shall be subject to a 5-year retention agreement described in §1291.9(a)(7) of this part.

(6) *Financial or other concessions.* The Bank may, in its discretion, require members and other lenders to provide financial or other concessions, as defined by the Bank in its AHP Implementation Plan, to households in connection with providing the AHP direct subsidy or financing to the household.

(7) *Financing costs.* The rate of interest, points, fees, and any other charges for all loans made in conjunction with the AHP direct subsidy shall not exceed a reasonable market rate of interest, points, fees, and other charges for loans of similar maturity, terms, and risk.

(8) *Counseling costs.* The AHP direct subsidies may be used to pay for counseling costs only where:

(i) Such costs are incurred in connection with counseling of homebuyers who actually purchase an AHP-assisted unit; and

(ii) The cost of the counseling has not been covered by another funding source, including the member.

(9) *Cash back to household.* A member may provide cash back to a household at closing on the mortgage loan in an amount not exceeding \$250, as determined by the Bank in its AHP Implementation Plan, and a member shall use any AHP direct subsidy exceeding such amount that is beyond what is needed at closing for closing costs and the approved mortgage amount as a credit to reduce the principal of the mortgage loan or as a credit toward the household's monthly payments on the mortgage loan.

(d) *Approval of AHP applications.* A Bank shall approve applications for AHP direct subsidy in accordance with the Bank's criteria governing the allocation of funds.

(e) *Procedure for funding—(1) Disbursement of AHP direct subsidies to members.*

(i) A Bank may disburse AHP direct subsidies only to institutions that are members of the Bank at the time they request a draw-down of the subsidies.

Federal Housing Finance Agency.

§ 1291.7

(ii) If an institution with an approved application for AHP direct subsidy loses its membership in a Bank, the Bank may disburse AHP direct subsidies to a member of such Bank to which the institution has transferred its obligations under the approved AHP application, or the Bank may disburse AHP direct subsidies through another Bank to a member of that Bank that has assumed the institution's obligations under the approved AHP application.

(2) *Reservation of homeownership set-aside subsidies.* A Bank shall establish and implement policies for reservation of homeownership set-aside subsidies for households enrolled in the Bank's homeownership set-aside program. The policies shall provide that set-aside subsidies be reserved no more than 2 years in advance of the Bank's time limit in its AHP Implementation Plan for draw-down and use of the subsidies by the household and the reservation of subsidies be made from the set-aside allocation of the year in which the Bank makes the reservation.

(3) *Progress towards use of AHP direct subsidy.* A Bank shall establish and implement policies, including time limits, for determining whether progress is being made towards draw-down and use of the AHP direct subsidies by eligible households, and whether to cancel AHP application approvals for lack of such progress. If a Bank cancels any AHP application approvals due to lack of such progress, it shall make the AHP direct subsidies available for other applicants for AHP direct subsidies under the homeownership set-aside program or for other AHP-eligible projects.

(f) *Mortgage refinancing program—(1) General.* A Bank may establish a homeownership set-aside program for the use of AHP direct subsidy by its members to assist in the refinancing of a household's mortgage loan, provided such program meets the requirements of this paragraph (f) and otherwise meets the requirements of regulations in this part. The provisions of paragraphs (c)(2)(ii), (c)(2)(iii), (c)(4), (c)(6) and (c)(8) of this section, shall not apply to such program.

(2) *Eligible loans.* A loan is eligible to be refinanced with AHP direct subsidy if the loan is secured by a first mort-

gage on an owner-occupied unit that is the primary residence of the household, and the loan is refinanced under an eligible targeted refinancing program.

(3) *Eligible uses of AHP direct subsidy.* Members may provide the AHP direct subsidy to:

(i) Reduce the outstanding principal balance of the loan by no more than the amount necessary for the new loan to qualify under both the maximum loan-to-value ratio and the maximum household mortgage debt-to-income ratio required by the eligible targeted refinancing program; or

(ii) Pay loan closing costs.

(4) *Eligible lender participants.* A Bank, in its discretion, may require that a household obtain its refinancing loan through a member participating in an eligible targeted refinancing program.

(5) *Counseling.* Prior to enrollment in an AHP set-aside refinancing program established under this paragraph (f), a household must obtain counseling for foreclosure mitigation and for qualification for refinancing by an eligible targeted refinancing program through the National Foreclosure Mitigation Counseling program or other counseling program used by a State or local government or housing finance agency.

(6) *Sunset.* (i) This paragraph (f) shall expire on July 30, 2010, and a Bank may not commit AHP subsidy to households under its AHP set-aside refinancing program after such date.

(ii) A lender may use the AHP subsidy committed by such date for a loan submitted to the eligible targeted refinancing program for approval on or before July 30, 2010 that is approved for refinancing under such program after such date.

[71 FR 59286, Oct. 6, 2006, as amended at 73 FR 61664, Oct. 17, 2008; 74 FR 38522, Aug. 4, 2009]

§ 1291.7 Monitoring.

(a) *Competitive application program—(1) Initial monitoring policies for owner-occupied and rental projects—(i)—Adoption and implementation.* Pursuant to written policies established by a Bank, the Bank shall monitor each AHP owner-occupied and rental project under its competitive application program prior to, and within a reasonable